



05.08-08

10191/4206

rew

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Pascal KOCHER
Serial No. : 10/574,208
Int'l. Filing Date : July 22, 2004
For : DEVICE FOR FATIGUE WARNING IN MOTOR
VEHICLES HAVING A RUN-UP ALARM SYSTEM
Examiner : Anthony Smith
Group Art Unit : 2612

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

**RESPONSE TO DECISION ON REQUEST TO WITHDRAW HOLDING OF
ABANDONMENT**

SIR:

This communication is being filed in response to Decision on Request dated April 24, 2008 in connection with the above-identified application. Examiner Smith indicated that a PETITION TO WITHDRAW HOLDING OF ABANDONMENT was received at the United States Patent and Trademark Office but that a true copy of the Combined Declaration and Power of Attorney was missing.

In response, the Applicants are resubmitting the following documents which were originally filed in the United States Patent and Trademark Office ("USPTO") by "Express Mail" service on May 8, 2007. Enclosed are copies of the following signed documents, dated May 8, 2007 with the Express Mail Label No. EV 885 413 276 US:

- (1) Copy of the original date stamped postcard received from the USPTO;
- (2) Copy of the Express Mail Label (Label No. EV 885 413 276 US);
- (3) Copy of the Response to Missing Requirements Under 35 U.S.C. § 371;
- (4) Copy of the Combined Declaration and Power of Attorney;
- (5) Copy of the original PETITION TO WITHDRAW HOLDING OF ABANDONMENT.

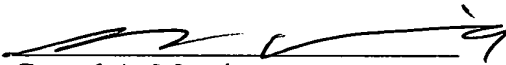
Response To Decision On Request
To Withdraw Holding of Abandonment
10191/4206

Applicants therefore respectfully request that the enclosed copy of the Petition mailed on May 8, 2007 be entered and reconsidered in the present application.

No fee is believed to be required. However, if any fee is required, please charge Deposit Account No. **11-0600**. A duplicate copy of this transmittal letter is enclosed for that purpose.

Date 5/6/08

Respectfully submitted,
KENYON & KENYON LLP


Gerard A. Messina
Reg. No. 35,952

One Broadway
New York, NY 10004
Telephone: (212) 425-7200
Facsimile: (212) 425-5288

Customer Number 26646



EV88541327605

Case No. 10191/4206

Atty. GAM

Ser. No. 101574, 208

Due Date 5/8/07

The Impressed Mail Room date stamp acknowledges receipt of the date indicated of:

UP12 Rec'd PCT/PTO 08 MAY 2007

☐ Application

☐ Extension Request

☐ Amendment

☐ Priority Document

☐ Assignment

☐ Issue Fee

☐ Notice of Appeal

☒ Declaration

☐ Prior Art Statement

☐ Small Entity

☐ Appeal Brief

☒ Missing requirements

Dep Acct 11-0600



EV 885413276 US



UNITED STATES POSTAL SERVICE®

Customer Copy

Label 11-E, April 2004

Post Office To Addressee

ORIGIN (POSTAL SERVICE USE ONLY)			
PO ZIP Code 1000	Day of Delivery <input type="checkbox"/> Next <input type="checkbox"/> 2nd <input checked="" type="checkbox"/> 3rd Del. Day	Postage \$ 14.40	
Date Accepted 5 8 7	Scheduled Date of Delivery	Return Receipt Fee	
Mo. Day Year	Month Day	\$	
Time Accepted 300 PM	Scheduled Time of Delivery <input type="checkbox"/> Noon <input checked="" type="checkbox"/> 3 PM	COD Fee	Insurance Fee
Flat Rate <input type="checkbox"/> or Weight	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	\$	
lbs. ozs.	Int'l Alpha Country Code	Acceptance Emp. Initials	

DELIVERY (POSTAL USE ONLY)			
Delivery Attempt	Time	<input type="checkbox"/> AM	Employee Signature
Mo. Day		<input type="checkbox"/> PM	
Delivery Attempt	Time	<input type="checkbox"/> AM	Employee Signature
Mo. Day		<input type="checkbox"/> PM	
Delivery Date	Time	<input type="checkbox"/> AM	Employee Signature
Mo. Day		<input type="checkbox"/> PM	

CUSTOMER USE ONLY	
METHOD OF PAYMENT:	
Express Mail Corporate Acct. No.	

CUSTOMER USE ONLY	
Federal Agency Acct. No. or Postal Service Acct. No.	

FROM: (PLEASE PRINT)	
212 425 7700	
KENVON & KENVON LLP	
1 BROADWAY	
NEW YORK NY 10004-1007	

TO: (PLEASE PRINT)	
MAIL STOP. PCT	
COMMISSIONER FOR PATENTS	
PO BOX 1450	
ALEXANDRIA VA 22313-1450	

FOR PICKUP OR TRACKING: Visit www.usps.com or Call 1-800-222-1811

Service Guarantee: Express Mail international mailings are not covered by this service agreement. Military shipments delayed due to customs inspections are also excluded. If the shipment is mailed at a designated USPS Express Mail facility on or before the specified deposit time for overnight or second delivery day delivery to the addressee, delivery to the addressee or agent will be attempted before the applicable guaranteed time. Signature of the addressee's agent or delivery employee is required upon delivery. If a delivery attempt is not made by the guaranteed time and the mailer files a claim for a refund, the USPS will refund the postage, unless the delay was caused by a proper detention for law enforcement purposes, strike or work stoppage, late deposit of shipment, forwarding, return, incorrect address, or incorrect ZIP code, delay or cancellation of flights governmental action beyond the control of the Postal Service or air carriers, war, insurrection, or civil disturbance, breakdowns of a substantial portion of the USPS transportation network resulting from events or factors outside the control of the Postal Service or acts of God.

A notice is left for the addressee when an item cannot be delivered on a first attempt. If the item cannot be delivered on the second attempt and is not claimed by the addressee within five days of the second attempt, it will be returned to sender at no additional postage.

Please consult your local Express Mail directory for noon and 3 p.m. delivery areas and for information on international and military Express Mail services. See the Domestic Mail Manual for details.

Insurance Coverage: Insurance is provided only in accordance with postal regulations in the Domestic Mail Manual (DMM) and, for international shipments, the International Mail Manual (IMM). The DMM and IMM set forth the specific types of losses that are covered, the limitations on coverage, terms of insurance, conditions of payment, and adjudication procedures. Copies of the DMM and IMM are available for inspection at any post office and online at pe.usps.gov. If copies are not available and information on Express Mail insurance is requested, please contact postmaster prior to mailing. The DMM and IMM consist of federal regulations, and USPS personnel are NOT authorized to change or waive these regulations or grant exceptions. Limitations prescribed in the DMM and IMM provide, in part, that:

- The contents of Express Mail shipments defined by postal regulations as merchandise are insured against loss, damage, or rifling. Coverage up to \$100 per shipment is included at no additional charge. Additional merchandise insurance up to \$5,000 per shipment may be purchased for an additional fee; however, additional insurance is void if waiver of the addressee's signature is requested.
- Coverage extends to the actual value of the contents at the time of mailing or the cost of repairs, not to exceed the limit provided for the insurance coverage obtained.
- Items defined by postal regulations as "negotiable items" (items that can be converted to cash without resort to forgery, currency, or bullion) are insured up to a maximum of \$15 per shipment.
- For international Express Mail shipments, insurance coverage may vary by country and may not be available to certain countries. Indemnity is not paid for items containing coins, banknotes, currency notes (paper money), securities of any kind payable to the bearer, traveler's checks, promissory notes, and silver (manufactured or not), precious stones, jewelry, and other valuable or prohibited articles.
- Items defined by postal indemnity regulations as "nonnegotiable documents" are insured against loss, damage, or rifling up to \$100 per shipment for document reconstruction, subject to additional limitations for multiple pieces lost or damaged in a single catastrophic occurrence. Document reconstruction insurance provides reimbursement for the reasonable costs incurred in reconstructing duplicates of nonnegotiable documents mailed. Document reconstruction insurance coverage above \$100 per shipment is NOT available, and attempts to purchase additional document insurance are void.
- No coverage is provided for consequential losses due to loss, damage, or delay of Express Mail, or for concealed damage, spoilage of perishable items, and articles improperly packaged or too fragile to withstand normal handling in the mail.

COVERAGE, TERMS AND LIMITATIONS ARE SUBJECT TO CHANGE. Please consult Domestic Mail Manual and International Mail Manual, both of which are available at pe.usps.gov, for additional limitations and terms of coverage.

Claims: Original customer receipt of the Express mail label must be presented when filing an indemnity claim and/or for a postage refund.

- All claims for delay, loss, damage, or rifling must be made within 90 days of the date of mailing; for international, call 1-800-222-1811.
- Claim forms may be obtained and filed at any post office.
- To file a claim for damage, the article, container, and packaging must be presented to the USPS for inspection. To file a claim for loss of contents, the container and packaging must be presented to the USPS for inspection. **PLEASE DO NOT REMAIL. THANK YOU FOR CHOOSING EXPRESS MAIL.**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Pascal KOCHER.
International Application No.: PCT/DE04/01630
International Filing Date : July 22, 2004
U.S. Serial No. : 10/574,208
For : **Device For Fatigue Warning In Motor Vehicles Having A
Run-Up Alarm System**

Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**RESPONSE TO MISSING REQUIREMENTS
UNDER 35 U.S.C. 371**

S I R :

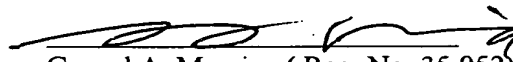
In response to the Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (mailed March 8, 2007), Applicants submit herewith a fully executed Declaration and Power of Attorney to complete the filing requirements for the U.S. national phase of the above-identified PCT application.

The application filed in the Patent Office is the application which the inventors executed by signing the Declaration and Power of Attorney. A copy of the Notification of Missing Requirements is also enclosed.

The Office is authorized to charge the \$130.00 fee to cover the surcharge for late filing of the Declaration to Deposit Account No. 11-0600. The Office is also hereby authorized to charge Deposit Account No. 11-0600 with any additional fees required by this paper or credit any overpayment. An additional copy of this letter is enclosed for this purpose

Respectfully submitted,
KENYON & KENYON LLP

Date: 5/8/07


Gerard A. Messina (Reg. No. 35,952)

One Broadway
New York, NY 10004
Tel: (212) 425-7200
Fax: (212) 425-5288





10191/4206

**COMBINED DECLARATION AND
POWER OF ATTORNEY FOR PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below adjacent to my name.

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled **DEVICE FOR FATIGUE WARNING IN MOTOR VEHICLES HAVING A RUN-UP ALARM SYSTEM**, and the specification of which:

- ☐ is attached hereto;
- ☐ was filed as United States Application Serial No. _____ on _____, 19__ and was amended by the Preliminary Amendment filed on _____, 19__.
- ☒ was filed as PCT International Application Number **PCT/DE2004/001630** on the **22nd day of July, 2004**.
- ☒ an English translation of which is filed herewith.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a). I hereby claim foreign priority benefits under Title 35, United States Code § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international applications(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

**PRIOR FOREIGN/PCT APPLICATION(S)
AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. § 119**

Country : Federal Republic of Germany

Application No. : 103 50 276.9

Date of Filing: October 28, 2003

Priority Claimed

Under 35 U.S.C. § 119 : ☒ Yes ☐ No

I hereby claim the benefit under Title 35, United States Code § 120 of any United States Application or PCT International Application designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

**PRIOR U.S. APPLICATIONS OR
PCT INTERNATIONAL APPLICATIONS
DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. § 120**

U.S. APPLICATIONS

Number :

Filing Date :

**PCT APPLICATIONS
DESIGNATING THE U.S.**

PCT Number :

PCT Filing Date :

I hereby appoint Richard L. Mayer (Reg. No. 22,490), Gerard A. Messina (Reg. No. 35,952) and the practitioners associated with **Customer Number 26646** as my attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

(List name(s) and registration number(s)):

Gerard A. Messina,	Reg. No. 35,952
_____	Reg. No. _____
_____	Reg. No. _____

All correspondence should be sent to:

Gerard A. Messina, Esq.
KENYON & KENYON LLP
One Broadway
New York, New York 10004
CUSTOMER NO. 26646

Telephone No.: (212) 425-7200
Facsimile No.: (212) 425-5288

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Full name of inventor: **Pascal KOCHER**

Inventor's signature



Date

09.05.2006

Citizenship France

Residence Hegnachweg 1
70839 Gerlingen
Germany

Post Office Address Same as above



10191/4206
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Pascal KOCHER
Serial No. : 10/574,208
Int'l. Filing Date : July 22, 2004
For : DEVICE FOR FATIGUE WARNING IN MOTOR
VEHICLES HAVING A RUN-UP ALARM SYSTEM
Examiner : Unknown
Group Art Unit : 2612

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

SIR:

Applicant hereby petitions to have the holding of abandonment dated November 11, 2007 for the above-identified patent application withdrawn in view of the following facts:

A Notification of Missing Requirements Under U.S.C. 371 mailed March 8, 2007 was received by the undersigned Attorney for Applicant. The Office Action set a two-month response period expiring May 8, 2007.

On May 8, 2007, Applicant's Attorney mailed to the Patent Office a Response to the Notification of March 8, 2007, enclosing an executed Declaration and Power of Attorney, a copy of the Notification and a return receipt postcard listing the enclosures. Applicant submitted the Response via Express Mail by Express Mail Label No. EV 885 413 276 US. Applicant also authorized the Office to charge Deposit Account

EXPRESS MAIL NO.: EV 321 841 110 US

11-0600 for the \$130.00 fee required with the response, which was signed by Applicant's Attorney.

A postcard listing the Response to the Notification of Missing Requirements and the executed Declaration, as well as the Deposit Account Number, and bearing a date stamp of receipt dated May 8, 2007 was received by Applicant's attorney from the Patent Office. The Patent Office-stamped return receipt postcard is evidence that the Office received the Response.

Copies of the Response, the Declaration and Power of Attorney post card receipt and Express Mail receipt stamped by the Post Office on May 8, 2007 are enclosed herewith.

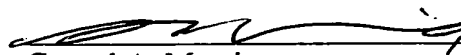
In light of the above, it is respectfully submitted that a timely response to the Notification of Missing Requirements was filed. It is therefore respectfully requested that the Notice of Abandonment be withdrawn and the application returned to the Examiner for further action.

It is believed that no fee is necessary in connection with this Petition. However, should a fee be required, the Commissioner is authorized to charge Deposit Account No. 11-0600. This Petition is submitted in duplicate.

Respectfully submitted,

KENYON & KENYON LLP

Date 12/3/07



Gerard A. Messina
Reg. No. 35,952

One Broadway
New York, NY 10004
Telephone: (212) 425-7200
Facsimile: (212) 425-5288

Customer Number 26646